

Missouri Revised Statutes
Chapter 266
Seeds, Fertilizers and Feeds

August 28, 2004

Short title.

266.011. Sections 266.011 to 266.111* shall be cited as "The Missouri Seed Law".

(L. 1951 p. 5 § 266.010, A.L. 1979 H.B. 57)

Definitions.

266.021. When used in sections 266.011 to 266.111:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this law.

(2) "Agricultural seeds" includes the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds, except Johnson grass.

(3) "Certified seed" means certified, registered, foundation or any term conveying a similar meaning when referring to seed that has been produced, processed and labeled in accordance with the procedures and in compliance with the rules and regulations of a legally constituted and officially recognized seed certifying agency as provided for in this law.

(4) "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least seventy-five percent hybrid seed. Hybrid designations shall be treated as variety names.

(5) "Department" or "department of agriculture" means the state department of agriculture, and when by this law the said department of agriculture is charged to perform a duty it shall be understood to authorize the performance of such duty by the director of the department of agriculture or his duly authorized deputies subject to his instructions.

(6) "Director" means the director of the Missouri state department of agriculture.

(7) "Hybrid" applied to kinds or varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining:

- (a) Two or more inbred lines;
- (b) One inbred or a single cross with an open pollinated variety;
- (c) Two selected clones, seed lines, varieties, or species.

(8) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, oats, alfalfa, or timothy.

(9) "Label" means any tag, label, brand, or device attached to, or written, stamped, printed, or stenciled on any container of seed or supplied with any bulk lot of seeds.

(10) "Lot" means a definite quantity of seed identified by a number, every portion or bag of which is uniform, within permitted tolerances for factors which appear in the labeling.

(11) "Person" includes any individual, partnership, corporation, company, society, or association.

(12) "Place of business" is that place from which seed is sold and includes a:

(a) "Retail place of business" where seed is held for sale and sold, or held for sale and offered for sale to the end user;

(b) "Wholesale place of business" where seed is held for sale and sold, or held for sale and offered for sale to a seed dealer.

(13) "Record" includes all information relating to the shipment and sale of seed.

(14) "Seizure" means a legal process for obtaining seed as granted by court order.

(15) "Stop-sale" means an administrative order provided by law, restraining the sale, use, disposition, and movement of a definite amount of seed, of a specific lot number if the seed is distinguished by lots.

(16) "Treated" means that the seed has received an application of a substance, or that it has been subjected to a process for which a claim is made.

(17) "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which it can be differentiated from other plants of the same kind.

(18) "Vegetable seeds" includes the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.

(19) "Weed seeds" includes the seeds of all plants generally recognized as weeds within this state, and includes (a) noxious-weed seeds which are the seeds of weeds which are highly objectionable in fields, lawns or gardens of Missouri, and which are difficult to control by good cultural practices, and (b) prohibited weed seeds which are the seeds of weeds which, when established, are highly destructive and difficult to control in this state by good cultural practices. The species of weeds seed declared to be noxious and the species of weeds seed declared to be prohibited shall be established by regulation.

(L. 1951 p. 5 § 266.020, A.L. 1957 p. 13, A.L. 1979 H.B. 57)

Permits required, fees, terms--penalty for late application.

266.031. 1. Any person who sells, distributes, offers or exposes for sale any agricultural or vegetable seed in the state of Missouri shall obtain a seed permit from the director of agriculture unless exempted as in section 266.080. Seed dealers must purchase permits for each seed sales classification performed, selling or taking orders for seed from other than an established place of business, selling seed from a retail place of business, selling seed from a wholesale place of business, or negotiating sales as a broker. A separate permit shall be required for each place of business from which seed regulated by this law is sold. A separate permit shall also be required of each person selling or taking orders for seed from other than an established place of business. Seed permit fees will be assessed as follows: (1) Place of business selling vegetable seed packets of one pound or less or lawn seed packages to the end user...\$5.00 (2) Person that sells only labeled seed grown on their own property...\$5.00 (3) Retail place of business or person not otherwise identified that sells or offers for sale agricultural seed or offers for sale agricultural seed or bulk vegetable seed to the end user and which does not provide storage facilities...\$5.00 (4) Retail place of business or person not otherwise identified that sells or offers for sale agricultural seed or offers for sale agricultural seed or bulk vegetable seed to the end user and which provides storage facilities. A permit to sell agricultural or bulk vegetable seed will suffice for selling seed as listed in (1) and (2)...\$15.00 (5) Wholesale place of business selling labeled seed for resale, or negotiating sales as a seed broker...\$100.00.

2. Farmers and seed producers shall be classed as seedsmen and must comply with all the provisions of sections 266.011 to 266.111 when the farmers or seed producers:

- (1) Offer, sell or expose for sale seed not of their own production;
- (2) Sell and deliver seed to a purchaser by way of common carrier;
- (3) Sell seed by any public sales service;
- (4) Advertise or label seed referring to the purity or germination.

3. No permit is transferable. All persons holding a Missouri seed permit shall post the permit in a conspicuous place in the place of business to which it applies. The licensing year shall be twelve months, or any fraction thereof, beginning on January first and ending December thirty-first. All permit fees shall be paid to the Missouri department of agriculture and shall be deposited in the state treasury.

4. If the application for renewal of any seed permit is not filed prior to expiration date in any year, a penalty of fifty percent shall be assessed and added to the original fee and shall be paid by the applicant before that renewal license shall be issued; provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in selling, distributing, offering or exposing seed for sale, subsequent to the expiration date of his license.

(L. 1951 p. 5 § 266.030, A.L. 1957 p. 13, A.L. 1979 H.B. 57)

Limit to number of free tests--regulations authorized--fee for excess.

266.040. Any citizen of this state shall have the privilege of submitting to the director of the department of agriculture samples of agriculture and vegetable seeds for test and analysis, subject to such regulations as may be adopted by the director; provided, that the director may by regulations fix the maximum number of samples that may be tested free of charge for any one citizen in a specified period of time, and fix charges for tests on samples submitted in excess of those tested free of charge. The fees collected for testing seed shall be paid to the Missouri department of agriculture and shall be deposited in the state treasury.

(RSMo 1939 § 14279, A.L. 1951 p. 5, A.L. 1979 H.B. 57)

Label requirements for agricultural seeds.

266.051. 1. Each container of agricultural seed of more than one pound and vegetable seed in any amount which is sold, offered for sale, transported, or exposed for sale, within this state for seeding purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(1) For agricultural seeds:

- (a) Commonly accepted name of (A) kind or (B) kind and variety, of each agricultural seed component in excess of five percent of the whole by weight. When more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label;
- (b) Lot number or other lot identification;
- (c) Origin, if unknown, that fact shall be stated;
- (d) Percentage by weight of pure seed;
- (e) Percentage by weight of all weed seeds;
- (f) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label;
- (g) Percentage by weight of inert matter;
- (h) Noxious weed seed content must be expressed in numbers per pound if the seed is sold in units of pounds or U.S. dry measure and in numbers per one hundred grams if the seed is sold in

units of the metric system. The name and number of each kind of noxious weed seed must be stated when present singly or collectively in excess of the numbers listed in subparagraphs a, b, c, or d:

- a. Eighty seeds per pound or eighteen seeds per one hundred grams of *Agrostis* species, *Poa* species, Bermuda grass, timothy, orchard grass, fescues (except meadow and tall fescues), alsike and white clover, reed canary grass, and other agricultural seeds of similar size and weight, or mixtures within this group;
- b. Forty-eight seeds per pound or eleven seeds per one hundred grams of ryegrasses, meadow and tall fescues, millets, alfalfa, red clover, sweet clovers, lespedezas, brome grass, crimson clover, rape, *Agropyron* species, and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with subparagraph a, above;
- c. Sixteen seeds per pound or four seeds per one hundred grams of vetches, sudan grass and other agricultural seeds of similar size and weight, or mixtures not specified in subparagraphs a, b, and d, of this section;
- d. Eighty seeds per pound or eighteen seeds per one hundred grams of wheat, oats, rye, barley, buckwheat, sorghums (except sudan grass), soybeans, cowpeas, and other agricultural seeds of a size and weight similar to or greater than those within this group;

(i) The word "none", if shown on the label or tag under "noxious weeds", shall be construed as meaning that no noxious weed seeds are present. If noxious weed seeds are not present in excess of the number prescribed in paragraph (h), subparagraphs a, b, c, and d, above, then there shall be shown on the label or tag under "noxious weeds" either the name and number of each kind of noxious weed seeds present per pound or per one hundred grams, as may be the case, or the words "not in excess of . . ." and in the blank to be inserted the maximum number permitted under paragraph (h), subparagraphs a, b, c, and d;

(j) For each named agricultural seed:

- a. Percentage of germination, exclusive of hard seeds;
- b. Percentage of hard seed, if present;
- c. Total germination and hard seed;
- d. The calendar month and year the test was completed to determine such percentage;

(k) Name and address of the person who labeled said seed, or the name and address of the person who sells, offers or exposes said seed for sale within this state;

(l) Warning as to danger if seed has been treated with a compound poisonous to man or farm animal;

(2) For vegetable seeds:

- (a) Name of kind and variety of seed;
- (b) For vegetable seed packets of one pound or less, the planting season for which the seed was packed;
- (c) For vegetable seed in containers of more than one pound the percentage of germination, and the month and year in which the germination test was performed;
- (d) For seed in packets of one pound or less, that germinates less than the standards as established by the Federal Seed Act, or as the director prescribes through regulation:

- a. Percentage of germination, exclusive of hard seed;
- b. Percentage of hard seed, if present;
- c. Total germination and hard seed;
- d. The words "below standard" in not less than eight point type;
- e. The calendar month and year the test was completed;

(e) Name and address of the person who labeled said seed, or the name and address of the person who sells, offers or exposes said seed for sale within this state.

2. Agriculture seeds exposed for sale stored in bulk shall be labeled by attaching to the bin, tank, box, or other container in a conspicuous place, a tag or label stating the information required by the Missouri seed law and the rules and regulations thereunder. Any portion of seeds consisting of more than one pound sold from bulk directly to the purchaser shall be accompanied by an exact copy of the label attached to the container of the bulk lot of seed.

3. Agricultural seed labeled to show less than fifty percent germination must be additionally distinguished by the words "low germination". No seed containing less than twenty-five percent germination can be sold at retail level. This demarkation must be printed diagonally across the seed quality guarantees in print size at least three times the print used to express other seed quality claims.

4. Labeling agricultural seed as to variety is not required; however, when a variety name is shown on the label, the name must be confined to the recognized variety name. The representation of variety shall be confined to the recognized name of the variety of seed and such seed shall not have affixed thereto names or terms that create a misleading impression as to the history or quality of the seed.

5. When using the designation "hybrid" in labeling if any one kind or kind and variety of seed present in excess of five percent is hybrid seed, it shall be designated "hybrid" on the label. The percentage that is hybrid shall be at least ninety-five percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds of varieties are present in excess of five percent and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than ninety-five percent but more than seventy-five percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show:

(1) The percentage of pure seed that is hybrid seed;

(2) A statement such as contains from seventy-five percent to ninety-five percent hybrid seed.

6. When using the designation "hybrid" in labeling no one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than seventy-five percent hybrid seed.

7. Seed treated with a compound poisonous to man or farm animal shall show on the label or on a separate tag the words "poison treated" in boldface type, and in addition give the name of the chemical or brand name of treatment used.

(L. 1951 p. 5 § 266.050, A.L. 1979 H.B. 57)

Contents of statement on label or tag.

266.061. No statements regarding the quality or purity of such agricultural or vegetable seeds, if inconsistent with the requirements of this law, shall be written or printed on the label or tag, or placed inside or affixed to any container of agricultural or vegetable seed sold, offered for sale, transported or exposed for sale within this state for seeding purposes, except this section shall not prohibit the use of a limited warranty statement, provided such statement shall in no way modify or deny the labeling information required in this law or constitute a defense of any violation of this law.

(L. 1951 p. 5 § 266.060, A.L. 1979 H.B. 57)

Sales, offers for sale and acts prohibited.

266.071. 1. It is unlawful for any person to sell, distribute, offer for sale, or expose for sale any agricultural or vegetable seed within this state:

(1) Unless the test to determine the percentage of germination was performed within ten months of the time the seed is sold, exposed for sale, offered for sale or distributed. An exception shall be allowed for seed packaged in hermetically sealed containers, which may be sold, exposed for sale, offered for sale or transported up to thirty-six months after the test to determine the percentage of germination, if the seed is packaged according to the regulation governing hermetically packaged seed;

(2) Not labeled in accordance with the provisions of sections 266.011 to 266.111 or having a false or misleading labeling;

(3) Which has false or misleading advertisement;

(4) Containing prohibited weed seeds;

(5) Containing noxious weed seeds in excess of one-half percent, or in excess of the number declared on the label attached to the container of the seed;

(6) Containing more than two percent by weight of weed seeds, except for Brome grass, orchard grass or fescue which may not exceed three percent;

(7) Which is represented to be certified, registered, foundation, or any other term conveying a similar meaning when referring to seed unless it has been produced, processed, and labeled in accordance with procedures and in compliance with the rules and regulations of an officially recognized certifying agency.

2. It is unlawful for any person within this state:

(1) To detach, alter, deface or destroy any label provided for in sections 266.011 to 266.111, or the rules and regulations made and promulgated thereunder, or to alter or substitute seed, in a manner that may defeat the purposes of sections 266.011 to 266.111;

(2) To hinder or obstruct in any way any authorized person in the performance of his duties under sections 266.011 to 266.111;

(3) To fail to comply with a "stop-sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order or tags attached thereto, except with express permission of the enforcing officer, and for the purpose specified thereby;

(4) To sell noxious or prohibitive weed seed except as provided in section 266.080;

(5) To sell seed to persons performing the seed sale functions listed in subdivision (1), (2), (3), or (4) of subsection 1 of section 266.031, unless the person buying has a retail permit to sell seed;

(6) To permit seed to move into this state which does not meet the standards of the seed certifying agency of the state in which the seed originated or the provisions of Missouri seed law.

(L. 1951 p. 5 § 266.070, A.L. 1957 p. 13, A.L. 1979 H.B. 57)

Records required--inspection--retention.

266.076. All wholesale places of business shall maintain records showing kind of seed, quantity, date of shipment, consignee and consignor. Records on seed sales must be made available

during normal business hours, at the seed dealer's place of business for the director when he has preceded the time of inspection by a request in writing. Seed records shall be maintained for a period of three years.

(L. 1979 H.B. 57)

Exemptions.

266.080. The provisions of sections 266.051, 266.061 and 266.071 shall not apply:

- (1) To seed or grain not intended for seeding purposes;
- (2) To seed in storage, or being transported or consigned to an establishment for cleaning or processing; provided, that the invoice or labeling accompanying any shipment of said seed bears the statement "seed for processing"; and provided that any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to this law;
- (3) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier; provided, that such carrier is not engaged in producing, processing, or marketing agricultural or vegetable seed subject to the provisions of this law;
- (4) To a farmer who sells unlabeled seed of his own production;
- (5) To seed for use in experimental or breeding purposes, when approved by the director of agriculture on a form established by regulation.

(RSMo 1939 § 14270, A.L. 1951 p. 5, A.L. 1957 p. 13, A.L. 1979 H.B. 57)

Prior revisions: 1929 § 12606; 1919 § 12127

Director of agriculture to enforce provisions and requirements--rules and regulations to be adopted, procedure--laboratory--cooperation with others.

266.091. 1. The duty of enforcing sections 266.011 to 266.111 and carrying out its provisions and requirements shall be vested in the director of the department of agriculture. It shall be the duty of the director, individually, or through his authorized agents:

- (1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold or offered or exposed for sale within this state for seeding purposes, at such time and place and to such extent as he deems necessary to determine whether the agricultural or vegetable seeds are in compliance with the provisions of sections 266.011 to 266.111, and to notify promptly the person who transported, sold, offered or exposed the seed for sale, of any violation;
- (2) To adopt, after a public hearing, such reasonable rules and regulations necessary to secure the efficient enforcement of sections 266.011 to 266.111, including the promulgation of definitions of terms relating to the enforcement of this law;
- (3) To follow the established rules and methods on analysis as practiced by the Association of Official Seed Analysts and recognized by the seed testing laboratories of the United States Department of Agriculture;
- (4) To use tolerances, on pure seed, germination, weed seed and other crop as published in the rules for seed testing by the Association of Official Seed Analysts when taking regulatory action in the administration of this law.

2. Further, for the purpose of carrying out the provisions of sections 266.011 to 266.111, the director of the department of agriculture, individually, or through his authorized agents, is authorized:

(1) To enter upon any public or private premises during the regular business hours in order to have access to seeds subject to the law and the rules thereunder;

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the director of the department of agriculture finds is in violation of any of the provisions of sections 266.011 to 266.111, which order shall prohibit further sale of the seed until the officer has evidence that the law has been complied with and the owner or custodian shall have the right to take such steps as may be possible to bring the seed into compliance, such as recleaning, retesting, or relabeling. In respect to seeds which have been denied sale as provided in this subdivision, the owner or custodian of such seeds shall have the right of appeal from the order to the circuit court of the county or city in which the seed is found, praying for a judgment as to the justification of the order and for the discharge of the seed from the order prohibiting the sale in accordance with the findings of the court;

(3) To maintain a laboratory with necessary equipment within appropriations, and is authorized to assign any of his employees without additional salary to aid in the administration of sections 266.011 to 266.111, and shall further be required to secure an analyst or analysts and other necessary employees and designate reasonable remuneration therefor, for the proper enforcement and carrying out of the provisions of sections 266.011 to 266.111. It shall be the duty of the director, within his discretion and appropriations, to publish or cause to be published the results of the examinations, analyses and tests of these samples of agricultural seed or mixture of such seed, drawn as provided for in sections 266.011 to 266.111, together with any other information the director may find advisable. If the director publishes the violations of any seedsman he shall publish the violations of all seedsmen over the same period of time;

(4) To consider for regulatory purposes vegetable seed packets containing one pound or less deficient in germination, when by composite testing, a variety of vegetable seed of a single labeler is found deficient in germination. The method used to determine germination deficiency in vegetable seed packets will consist of germination analysis on at least one packet collected from each of ten different distribution points within the state. If five or more packets are found deficient in germination, that variety, or lot if distinguished by lot numbers, for that labeler will be considered deficient. A "stop-sale" will be issued on that variety or lot in all distribution points known by the director to be offering the vegetable seed packets for sale, and those places of business and the labeler of the seed will be notified;

(5) To gather information necessary to restrict the sale of uncertified seed sold by variety name when that variety has been granted a certificate of protection under the Plant Variety Protection Act which specifies sale only as a class of certified seed;

(6) To cooperate with, and enter into agreements with, any other agency of this state, the United States Department of Agriculture, and any other state or agency thereof, for the purpose of carrying out the provisions of sections 266.011 to 266.111, and securing uniformity of regulations.

3. No rule or portion of a rule promulgated under the authority of sections 266.011 to 266.111 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1951 p. 5 § 266.090, A.L. 1957 p. 13, A.L. 1978 H.B. 1634, A.L. 1979 H.B. 57, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

Seed certification agency, designation.

266.095. Certification of seed in the state of Missouri shall be carried out by an agency or association designated annually by the director of the Missouri agricultural experiment station at Columbia, Missouri.

(L. 1957 p. 13 § 266.092)

Seed subject to seizure, when--proceedings--disposition of condemned seed.

266.101. Any lot of agricultural or vegetable seed found in the possession of a single owner or custodian and not in compliance with the provisions of this law shall be subject to seizure upon complaint of the director of the department of agriculture to the circuit court of the county or city in which such seed is located. Such seizure shall not be made until the owner or custodian of the seed has been given sixty days from the date of a "stop-sale" order to bring the seed in compliance with the provisions of this law. In the event the court finds that the seed does not comply with this law, it shall order the condemnation thereof, and the seed shall be denatured, processed, destroyed, relabeled, or otherwise disposed of by the court; provided, that either party may demand a trial by jury on any issue of fact joined in any such case; and provided further, that in no instance shall the court order such disposition of said seed without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel said seed to bring it into compliance with this law.

(L. 1951 p. 5 § 266.100, A.L. 1978 H.B. 1634, A.L. 1979 H.B. 57)

Injunctive relief--bond required.

266.105. When in the performance of his duties the director of agriculture applies to any court for a temporary or permanent injunction restraining any person from violation or continuing to violate any of the provisions of this law or any rules and regulations under this law, the court may cause a temporary restraining order or a temporary or permanent injunction to issue. The provisions of chapter 526, RSMo, to the contrary notwithstanding, the state, when acting as party plaintiff in an action for a temporary restraining order or temporary or permanent injunction under this section, shall execute a bond to the other party, in such sum as the court deems sufficient to secure the amount or other matter to be restrained or enjoined, and all changes that may be occasioned by the restraining order or injunction to the parties restrained or enjoined, or to any party interested in the subject matter of the controversy, conditioned that the state will abide the decision in the controversy, and pay all sums of money, damages and costs that shall be adjudged against the state if the temporary restraining order or injunction is dissolved.

(L. 1979 H.B. 57)

Penalties for violations--attorney general to act on request, when, procedure--publication by director of result of legal action.

266.111. 1. Every violation of the provisions of this law shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars for the first offense and not exceeding one thousand dollars for each subsequent similar offense.

2. The director may report any violation of the provisions of sections 266.011 to 266.111 to the prosecuting attorney of the county where the violation occurs. The prosecuting attorney may institute appropriate proceedings in a court of competent jurisdiction. If any prosecuting attorney refuses or fails to act on request of the director, the attorney general shall so act; however, no prosecution under this law shall be instituted without the defendant first having been given an opportunity to appear before the director of agriculture or his duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the

director of agriculture is of the opinion that the evidence warrants prosecution, he shall proceed as herein provided.

3. It is the duty of the director of agriculture or the attorney general, as the case may be, to institute proceedings at once against any person charged with a violation of this law, if, in the judgment of such officer, the information submitted warrants such action.

4. After judgment by the court in any case arising under this law, the director of agriculture shall publish any information pertinent to the issuance of the judgment by the court in such media as he may designate.

(L. 1951 p. 5 § 266.110, A.L. 1978 H.B. 1634, A.L. 1979 H.B. 57)